IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CONTEMPT PETITION NO.124 OF 2002

Kamlesh Krishna Dhan Nabojya,
Indian inhabitant of Bombay,
residing at Shantaram Talav,
Narsoba Wadi, Malad (E),
Bombay--400 097. : Petitioner

V/s.

1. Haribhai R. Patel (Bullet),
Proprietor,
M/s.Diamond Cutting Factory,
carrying on business at Room No.7,
Marchan Chawl Khot
Dongry, Malad (East), Bombay--97.
2. The State of Maharashtra. : Respondents

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Mr.Kamlesh Krishna Dhan Nabojya, petitioner in person.
Mr.N.P.Vyas for respondent no.1.
Mr.D.A.Patil, Asstt. Govt. Pleader for respondent no.2.

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CORAM : S.A.BOBDE, J.

DATE : OCTOBER 01, 2007.

P.C.:

1. The petitioner has pointed out that the order of this Court dated 31.1.2002 passed in Writ Petition No.1340 of 2001 directing reinstatement of the petitioner in service with continuity of service and full back wages from

30.4.1994 i.e. the date of termination of his service has not been complied with till date.

2. The petitioner had worked with the respondent no.1-contemnor for a period of about six years at the end of which he appears to have been wrongfully terminated. He approached the Labour Court. The Labour Court held that he was entitled to reinstatement. It, however, held that he was entitled to reinstatement only upto December 1994 and back wages upto November 1994 after which the concern was closed.

3. In Writ Petition, this Court reversed the order of the Labour Court and granted reinstatement in service with continuity of service and full back wages from 30.4.1994.

4. In spite of the order of this Court having been passed on 31.1.2002, the respondent no.1 has neither reinstated the petitioner nor paid back wages. The learned counsel for the respondent no.1-contemnor, on instructions from the contemnor, who has been present in Court all along, stated that the contemnor is not in a position to comply with the order of the Court either for reinstatement or for payment of back wages. In short, the contention is that the respondent no.1-contemnor cannot comply with the said order. Indeed, if the difficulty was genuine, the respondent no.1 has had ample time since 2002 to take appropriate steps for variation of the order which has not

been done. Apparently, the application was preferred on one occasion for variation of the order, but that application was dismissed on the ground that the respondent no.1 failed to comply with the condition imposed by this Court. That order was passed on 5.12.2002. Indeed, this conduct is unacceptable and amounts to clear and wilful disobedience of the order of the Court. In fact, having failed to obtain a variation of the order, it appears that the respondent no.1 has had sufficient time to take some financial assistance to comply with the order of the Court, it also has not been done. In these circumstances, there is no option but to convict the respondent no.1 for wilful disobedience of the order of this Court dated 31.1.2002.

5. The respondent no.1 Haribhai R. Patel (Bullet) is convicted for civil contempt of Court and sentenced to undergo simple imprisonment for a term of one month. The respondent no.1 contemnor states that he is willing to surrender immediately. Order accordingly.

6. The learned counsel for the respondent no.1 states that the respondent no.1 has no property which can be attached. The Contempt Petition stands disposed of.

7. Civil Application nos.29 of 2002 and 79 of 2007 are adjourned for one week for directions.

S.A. BOBDE, J.